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August 1, 2016

VIA Electronic Mail

Mr. Jeff. S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20436

Re: MUR 7081, Floridians for a Strong Middle Class

Dear Mr. Jordan:

I write on behalf of respondents Floridians for a Strong Middle Class and its treasurer, Jennifer May (together "FSMC"), to respond to the complaint dated June 7, 2016 filed by Howard Klein (the "Complaint"). FSMC respectfully requests that the Federal Election Commission (the "Commission" or the "FEC") promptly determine that there is no reason to believe FSMC violated the Federal Election Campaign Act as the Complaint alleges, or in any other manner that might be considered from the Complaint's factual allegations and legal contentions.

The Complaint makes three allegations against FSMC, supported only by mere speculation. First, it alleges FSMC, in accepting a contribution from a real estate LLC, should have suspected the LLC was laundering foreign bribes. Second, it alleges FSMC should have known a contribution from an LLC operating a clothing store was actually a straw donation. Finally, it alleges a third contributor committed a technical violation when it failed to submit an annual state-agency filing – and that FSMC should have known about the failure to submit the annual filing. Based on the Complaint, the Commission should find no reason to believe FSMC violated FECA for either of two reasons:

1. The Complaint presents no credible evidence on which to base its claims. The Complaint weaves a speculative tale but provides no evidence to conclude its claims might be reasonable.

Rather, it hypothesizes that because a developer has conducted business with Chinese businesspeople, and because the developer owned a real estate LLC, and because some Chinese investors have used LLCs to purchase real estate, it's possible that this real estate LLC was a front for laundering foreign money into a U.S. election. Then the Complaint says that because one of the owners of a clothing store is a lawyer for the developer, and because his paralegal submitted the store's corporate documents, and because the store is located at one of the developer's developments, the store must be a front for funneling the developer's political contributions. But beyond these strings of speculation, the complainant presents no actual evidence that foreign funds were paid to the real estate LLC, or that the clothing store did anything other than use the profits from its clothing sales to make political contributions. Absent actual evidence, the complainant asks the Commission to conduct a fishing expedition to see if his speculation holds water. Acceding to such a request runs counter to the FEC's policy regarding the initial stage of the enforcement process.

2. Even if the contributions came from improper sources, the Complaint presents no evidence that FSMC knowingly violated FECA. Compounding the failure to present any evidence that the contributors funneled foreign contributions or made contributions in the name of another, the Complaint provide any indication that FSMC knew – or should have known – it was receiving improper contributions. Without such evidence, there is no basis on which to believe FSMC violated FECA.

When confronted with a Complaint that fails to provide evidence to substantiate its allegations, the Commission will not find reason to believe a violation has occurred. “The Commission will make a determination of ‘no reason to believe’ a violation has occurred when the available information does not provide a basis for proceeding with the matter.” FEC, “Agency Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process,” 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007). “Unwarranted legal conclusions from asserted facts, or mere speculation, will not be accepted as true, and ‘[s]uch speculative charges, especially when accompanied by direct refutation, do not form an adequate basis to believe that a violation of FECA has occurred.’” Factual and Legal Analysis in MUR 6077 (Coleman for Senate) at 7, issued May 19, 2009 (citing Statement of Reasons in MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee), issued December 21, 2000).

LLCs legally may contribute to independent expenditure-only committees (“super PACs”). See *Citizens United v. FEC*, 558 U.S. 310 (2010), *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), FEC Advisory Opinion 2010-11 (Commonsense Ten), 11 C.F.R. § 110.1(g). A super PAC treasurer must scrutinize a contribution that presents “evidence of illegality.” 11 C.F.R. § 103.3(b). But a treasurer who has no reason to think a contribution is questionable does not need to investigate further. FSMC had no reason to suspect any of the three contributions specified in the Complaint involved improper funds, so it had no obligation to engage in additional scrutiny.¹

¹ Three Commissioners have taken the position that “[b]ecause closely held corporations and corporate LLCs are constitutionally entitled to make contributions to Super PACs, such contributions shall be presumed lawful unless specific evidence demonstrates otherwise.” MUR 6485 et al, Statement of Reasons of Commissioners Petersen, Hunter and Goodman, issued April 1, 2016 at 12. As regards FSMC, the Commission need not reach this question, because FECA and FEC regulations prohibit only a PAC’s “knowing” acceptance of foreign funds or contributions made in the name of another, and FSMC has no knowledge that any of the entities in question either funneled foreign funds or involved a straw donor.

To assert that FSMC had reason to be suspicious of the contributions it received, the Complaint makes an unsupportable leap in logic, jumping from the fact that some foreign citizens have purchased U.S. real estate using LLCs, to conclude all U.S. real estate LLCs should be suspected of funneling foreign contributions. Of course, the overwhelming majority of real estate LLCs are neither schemes to hide illegal contributions nor are they foreign-owned entities. Indeed, the FEC database lists more than 14,000 LLC contributions during the 2015-2016 election cycle, many of which appear to be real estate LLCs, as their names include an address indicator such as "street," "drive," or "road." *See, e.g.*, February 5, 2016 contribution from 230 Meek Road, LLC to Conservative Solutions PAC. Countless more LLC contributors with prosaic names (*e.g.*, "SPM Holdings LLC") own real estate, but do so without using a name that reveals their business dealings. *See, e.g.*, MUR 6930 (Prakazrel "Pras" Michel), First General Counsel's report at 3.

Although the Complaint asserts FSMC "should have known" contributions from a real estate LLC "were suspicious," such contributions are not inherently questionable, and FSMC had no evidence of illegality related to 230 East 63rd-6 Trust, LLC ("230 East"). The Complaint says Nicholas Mastroianni had not listed 230 East as his employer when contributing to other federal committees, but this would not be "evidence of illegality" that would cause FSMC to think the contribution was questionable. First, there is no reason for FSMC to know who was identified as Mastroianni's employer on other committees' FEC reports. Second, the fact that 230 East is not his employer has no bearing on whether the LLC may contribute to FSMC. The three contributors named in the Complaint all were in existence before contributing to FSMC and all have bona fide business purposes other than making political contributions. 230 East was established in Delaware in February 2014 to own an apartment.² Pride United Limited Partnership ("Pride United") was established in Florida in December 1996 to own an office building.³ Chic Boutique Fashion LLC ("Chic Boutique") was established in Delaware in September 2015 to operate a clothing store that appears still to be in business (<https://www.chicboutique.fashion>). FSMC had no reason to believe these entities were anything other than bona fide businesses allowed under federal law to contribute to a super PAC.

The Complaint alleges FSMC violated two key provisions of FECA: the prohibitions on accepting contributions from foreign nationals and on accepting contributions made in the name of another. But these prohibitions apply only to the knowing acceptance of such contributions. *See* 11 C.F.R. § 110.20(g) ("No person shall knowingly solicit, accept or receive from a foreign national any contribution..."); 52 U.S.C. § 30122 ("[N]o person shall knowingly accept a contribution made by one person in the name of another person."). The Complaint presents no evidence FSMC knowingly accepted an illegal contribution, and, in fact, FSMC had no knowledge regarding the source of funds in 230 East, Pride United or Chic Boutique.

² The Complaint falsely alleges that 230 East is a Florida LLC that dissolved before contributing to FSMC. Complaint at 3. However, page 9 of Complaint Exhibit 4 describes 230 East as "a Delaware limited liability company." The complainant could have looked up the entity on the Delaware Division of Corporations' website (<https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>), and seen that it is still in existence – and that it had been formed long before its contribution to FSMC. Instead, the complainant made assertions directly contradicted by his own exhibit.

³ Regarding the Complaint's allegation that Pride United was administratively dissolved by the Florida Department of State prior to its contribution to FSMC, see the response filed by Pride United's counsel on July 25, 2016.

Mr. Jeff S. Jordan
Re: MUR 7081, Floridians for a Strong Middle Class
Page 4

Because FSMC had no reason to suspect the contributions were anything but legal, and did not knowingly accept prohibited contributions, the Commission should determine that there is no reason to believe FSMC violated FECA.

Respectfully submitted,



Allen H. Mattison
Counsel for Respondents
Floridians for a Strong Middle Class
and Jennifer May, as Treasurer

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